

Part 119—Certification: Air Carriers and Commercial Operators

This change incorporates Amendment 119-3, Operating Requirements: Domestic, Flag, Supplemental, Commuter, and On-Demand Operations: Corrections and Editorial Changes, adopted and effective March 12, 1997. This amendment affects §§ 119.3, 119.5, 119.9, 119.21, 119.35, 119.67, and 119.71, and adds 119.36.

Bold brackets enclose the most recently changed or added material in each section. The amendment number and effective date of new material appear in bold brackets at the end of each affected section.

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terminology consistent, or clarify the intent of the regulations published on December 20, 1995 (60 FR 65832). A few changes are to clarify existing rules or to deal with other long-standing exemptions. A new Special Federal Aviation Regulation is being issued to address three problems that relate to compliance with requirements for communications facilities and aircraft dispatchers by operators in Alaska and other areas.

FOR FURTHER INFORMATION CONTACT: Katherine Hakala, Flight Standards Service (AFS), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-8166 or 267-3760.

SUPPLEMENTARY INFORMATION:

Availability of the Final Rule

An electronic copy of this document may be downloaded using a modem and suitable communications software from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703-321-3339) or the Federal Register's electronic bulletin board service (telephone: 202-512-1661).

Internet users may reach the FAA's web page at <http://www.faa.gov> or the Federal Register's webpage at http://www.access.gpo.gov/su_docs for access to recently published rulemaking documents.

Any person may obtain a copy of this final rule by mail by submitting a request to the Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-9677. Communications must identify the docket number of this final rule.

Persons interested in being placed on the mailing list for future NPRM's should request from the FAA's Office of Rulemaking a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Background

On December 20, 1995, new part 119, Certification: Air Carriers and Commercial Operators, was published in the *Federal Register* (60 FR 65832; December 20, 1995). Part 119 reorganizes, into one part, certification and operations specifications requirements that formerly existed in SFAR 38-2 and in parts 121 and 135. The final rule for new part 119 also deleted or changed certain sections in part 121, subparts A through D, and part 135, subpart A, because the requirements in those subparts have been recodified in part 119. On January 26, 1996, another final rule was published (61 FR 2608) affecting parts 119, 121, and 135. That amendment made editorial and terminology changes in the remaining subparts of parts 121 and 135 to conform those parts to the language of part 119 and to make certain other changes. Additional documents making editorial changes and corrections were published on March 11, 1996 (61 FR 9612), and June 14, 1996 (61 FR 30432).

Part 119 was issued as part of a large rulemaking effort, known as the "commuter rule," to upgrade the requirements that apply to scheduled operations conducted in airplanes that have a passenger seat configuration of 10 to 30 passengers. As of March 20, 1997, these operations will be conducted under the requirements of part 121, in accordance with the final rule published on December 20, 1995.

Notice of Proposed Rulemaking

On February 3, 1997, the FAA published an NPRM (62 FR 5076; Notice No. 97-1) proposing changes to correct errors, make terminology consistent, clarify the intent of part 119 and the commuter rule published on December 20, 1995, as well as make other minor changes not directly related to the commuter rule. These proposed changes are considered important because, as a result of the implementation of part 119 and the completion of the transition process for commuter operations affected by the final rule, a number of questions of interpretation have been raised and errors in previous final rules have been identified. In addition, a new Special Federal Aviation Regulation (SFAR) is needed to address

The FAA received 19 comments in response to Notice No. 97-1. Comments were received from operators affected by the proposed rule, aircraft dispatchers, industry associations, and a manufacturer of communications system. Many commenters stressed the importance of having the final rule issued before March 20, 1997, when the majority of the commuter rule provisions go into effect. Other specific comments are summarized in the following section-by-section discussion of the final rule, which includes the FAA's responses to these comments.

Explanation of Amendments

A number of changes are necessary in parts 21, 25, 91, 119, 121, 125, and 135 to correct typographical errors, to make minor editorial changes that help clarify the intent of the rules, or to make editorial changes that make related rules consistent with each other. These types of changes are not individually explained. However, a number of changes require some explanation, which follows:

1. The proposal revised the definitions of "on-demand operation," "scheduled operation," and "supplemental operation" in § 119.3 to make it clear that public charter operations conducted under 14 CFR part 380 are not considered scheduled operations.

No comments were received on the proposed definitions and the changes to § 119.3 are adopted as proposed.

2. The proposal amended § 119.5 to add new paragraph (k), which incorporated former § 135.31 into part 119. As proposed, this section prohibited advertising or otherwise offering to perform any operation unauthorized by the FAA, and it was applicable to any person, including certificate holders operating under part 121, as well as those operating under part 135.

The proposal also added § 119.5(l) which stated that, for safety purposes, people who operate aircraft under parts 121 and 135 must comply with the provisions in a certificate holder's operations specifications. This paragraph was proposed to prevent an employee of a certificate holder (with or without other certificate holder's knowledge) from violating the provisions of the certificate holder's operations specifications. For example, if a certificate holder is only authorized to carry cargo, a flight crewmember would not be allowed to bring along a friend as a passenger on the commercial flight.

No comments were received on these proposals and the changes to § 119.5 are adopted as proposed.

3. The proposal amended § 119.9 to allow displaying the air carrier or operating certificate number on an aircraft instead of the name of the certificate holder. As described in the NPRM, a petition by the National Air Transportation Association (NATA) and supporting comments requested that, for security and financial reasons, operators be allowed to display the air carrier or operating certificate number in lieu of the name of the certificate holder. In the NPRM, the FAA agreed that display of an air carrier or operating certificate number would meet the intent of this requirement, which is to provide a ready means of identifying a responsible certificate holder when an aircraft is parked and the FAA has reason to identify or contact the certificate holder. Therefore, the FAA proposed to amend § 119.9(b)(4) as requested by NATA.

The proposal also deleted the provision allowing the Assistant Administrator for Civil Aviation Security to grant deviations from the requirements of this section because the FAA no longer believed that these deviations were necessary.

NATA, Helicopter Association International (HAI), and individual operators affected by the proposed change to § 119.9(b) comment in support of allowing part 135 operators to display their air carrier or operating certificate number on an aircraft instead of the name of the certificate holder. Commenters emphasize that, if the FAA adopts the proposed amendment, it is imperative to make the amendment effective before March 20, 1997, so that they will not need to apply the certificate holder's name temporarily on the aircraft, and then remove it when the amendment takes effect later. One operator comments that even having the operating certificate number on the aircraft creates a security risk for some customers.

No comments were received on the proposal and the changes to § 119.21 are adopted as proposed.

5. The proposal amended § 119.35 to clarify that the additional financial and contract reporting requirements of this section apply only to commercial operators. The proposal split § 119.35 into two sections: Proposed § 119.35 contained just the certificate application procedures that apply to all applicants, and new § 119.36 contained the additional requirements for commercial operators.

In the NPRM, the FAA proposed that § 119.36 distinguish between requirements for all commercial operators and those applicable only to commercial operators under part 121. In addition, the FAA proposed to delete the financial reporting requirements of § 135.64(b), but to retain the contract retention requirements in § 135.64(a).

No comments were received on the proposal and §§ 119.35 and 119.36 are adopted as proposed.

6. The proposal revised § 119.67(c) and (d) to amend the qualification requirements applicable to Directors of Maintenance and Chief Inspectors under part 121. The proposal also revised § 119.71(e) to amend the qualification and experience requirements applicable to the Director of Maintenance under part 135.

Both proposals established requirements for a person becoming the Director of Maintenance or Chief Inspector for the first time. These proposals were designed to ensure that persons holding these required management positions have the measure of experience and the demonstrated capability of effectively managing these programs.

The FAA proposed that, under §§ 119.67(c)(1) and 119.71(e)(1), the Director of Maintenance must have held the airframe and powerplant ratings for 3 years.

The proposal also amended § 119.67(c)(2) by changing the existing 1 year of maintenance experience in a supervisory capacity in maintaining the category and class of airplane used by the certificate holder, to 3 years of supervisory experience within the last 6 years in a position that exercised operational control over maintenance program functions.

In addition, the proposal amended § 119.67(c)(4)(i)(B) by replacing the word “repairing” with the word “maintaining”, as the latter is consistent with the definition of maintenance as defined in 14 CFR 1.1.1. In addition, the word “maintaining” reflects the broader experience level more appropriate to the Director position.

For the Chief Inspector position, the proposal changed § 119.67(d)(2) to require 3 years of supervisory or managerial experience within the last 6 years.

The proposal also revised § 119.67(e) to clarify that certificate holders may request a deviation from the experience requirements of the section, but not from the airman certificate requirements of the section. Therefore, a certificate holder would not be allowed to employ a person who does not hold the required airman certificate (e.g., ATP certificate, commercial pilot certificate, mechanic certificate).

Proposed § 119.71 contained the management qualification requirements that formerly appeared in § 135.39. Section 119.71(b) and (d) required that the Director of Operations and the Chief Pilot, respectively, must hold at least a commercial pilot certificate with an instrument rating. However, under former § 135.39 the instrument rating was required only if any pilot in command for that certificate holder was required to have an instrument rating. For operations such as a VFR only helicopter operation, the pilot in command is not required to hold an instrument rating. Therefore the FAA proposed that § 119.71(b) and (d) be revised to match the intent of former § 135.39.

HAI comments in support of the proposed amendment of § 119.71(b) and (d) on behalf its membership, which includes a substantial number of VFR-only helicopter operations. HAI states that without the amendment to § 119.71(b) and (d) many operators would be forced to suspend operations until personnel that meet the current requirements can be identified and hired, and that there may not be enough such

7. In the NPRM, the FAA proposed that a new Special Federal Aviation Regulation (SFAR) be added to part 121 to address two problems that relate to compliance with § 121.99 and a third problem that relates to compliance with § 121.395. These are outlined below.

(1) The first problem involves certain communications difficulties in Alaska and other areas affecting certificate holders who are required by § 121.99 to "show that a two-way air/ground communication system is available at all points that will ensure reliable and rapid communications under normal operating conditions over the entire route (either direct or via approved point to point circuits) between each airplane and the appropriate dispatch office and between each airplane and the appropriate air traffic control unit."

The NPRM pointed out that, in certain areas, the lack of infrastructure or appropriate technology has prevented certificate holders from establishing such systems. For other certificate holders, the nature of their operations (e.g., flying at low altitudes or in mountainous terrain) has prevented them from using current communication systems that may be reliable only at higher altitudes.

If a certificate holder shows to the Administrator that communications gaps exist due to such reasons as lack of infrastructure, ATC operating restrictions, the terrain, operating altitude, or feasibility of a certain kind of communications system, the certificate holder would be allowed to continue to operate over that route if the certificate holder establishes alternative procedures for prompt re-establishment of communication, for establishment that the airplane arrived at its destination, and for flight locating purposes. Under the SFAR, relief would only be granted after the certificate holder shows that it would meet the requirements to the maximum extent possible. In granting such approval, the Administrator would consider certain factors that are listed in the SFAR.

Under the proposed SFAR, the certificate holder would obtain the approval of the Administrator in its operations specifications. The requests will be processed through the certificate-holding district office, with concurrence by the FAA's Air Transportation Division (AFS-200). This type of alternative compliance approval would only be available for scheduled operations with airplanes having a passenger-seat configuration of 30 seats or fewer, excluding each crewmember seat, and a payload capacity of 7,500 pounds or less under part 121 of this chapter.

(2) The second § 121.99-related problem involves certificate holders who have conducted or who might in the future conduct scheduled intrastate operations in Alaska. Under the pre-commuter rule amendments these operations operated under the rules applicable to flag air carriers and thus, under the last sentence of § 121.99, were not prohibited from using a communications system operated by the United States. For certificate holders operating intrastate in Alaska, whether certificated before or after January 19, 1996, it was considered impractical at that time to mandate that the required communications systems be independent of any system operated by the United States.

Therefore even though these certificate holders would otherwise have been required to comply with the operating rules for domestic operations, under the proposed SFAR they would be allowed to use systems operated by the United States, when there is no practical alternative, for the 4-year effective period of the SFAR. The FAA further proposed to amend § 121.99 to require that, concurrent with the expiration of the SFAR, all flag operations in Alaska, not just those affected by the commuter rule change mentioned above, have communications systems that are independent of any system operated by the United States.

(3) The third issue addressed by the proposed SFAR relates to the use of aircraft dispatchers by former commuter operations in Alaska who are required by the commuter rule to have a part 121 dispatch system. It is long-standing FAA policy that each certificate holder subject to § 121.395 have aircraft dispatchers that are employed exclusively by that certificate holder. However, small operations located in remote areas have found it hard to attract qualified, certificated aircraft dispatchers to work and live in those areas.

within that time.

Several commenters address the provisions in the proposed SFAR. The Air Transport Association (ATA) sees no reason why the SFAR should be so restrictive and limited to commuter operations, because from a safety standpoint, larger aircraft have greater fuel capacity and alternate airport capability, and generally have a larger safety margin built in than small commuter aircraft. NATA believes that the proposed SFAR does not adequately address the special nature of flight operations in rural Alaskan areas, because the inherent problem is that Alaska simply does not have the infrastructure to guarantee communications in remote areas. Also NATA believes that operations in designated remote areas, where flights are mainly VFR, flight plans frequently change, and airports are often unattended, should not be subjected to the same stringent dispatching requirements applied to other part 121 operations. An aeronautical communications company disagrees with FAA's statements on lack of infrastructure and availability of appropriate technology. This commenter believes that there is a wide variety of choices available to meet the communication needs for positive operational control and that operators in remote geographical areas may need to make a combination of choices to allow them to meet the requirements of the current rules.

The Airline Dispatchers Federation (ADF) and an individual aircraft dispatcher address the relationship between the communications system required by § 121.99 and the role of the aircraft dispatcher in providing information that may affect the safety of the flight to the pilot in command. ADF believes that adequate air ground communication technology is available for Alaskan operations, but that if there is a lack of weather reporting along their routes, air carriers can provide station and other personnel with telephone, dial access radio, HF, VHF, or SatComm communications and provide them with the training to provide accurate weather and aerodrome information. ADF further suggests that Alaskan air carriers cooperate to build their own radio network to cover their routes or that the State of Alaska may want to help finance any additional infrastructure required for scheduled air service in Alaska.

ADF suggests that Alaskan pilots, operating under a "bush" mentality, have knowingly flown in IMC or VFR flights in response to operational pressures, and that when adequate communication systems are in place and aircraft dispatchers are able to obtain accurate information on weather and other local conditions, the pilots will no longer be able to decide on their own whether or not to initiate or continue a particular flight, because, if the information does not show the operation can be conducted safely, the dispatcher may not authorize the flight.

ADF and the aircraft dispatcher object to FAA's proposal to allow Alaskan air carriers to share aircraft dispatchers under certain conditions. The commenters fear that a dispatcher working under contract or exercising operational control on a competitor's flight may have his or her actions second-guessed by the management of the other airline. ADF comments that a shared dispatcher may be kept at a distance from the operations and only told what company employees want the dispatcher to know.

ADF and the dispatcher believe that part 135 operators who have faced the challenge of complying with the communications and dispatching rules of part 121 should be commended and not effectively penalized economically by competitors who take advantage of the provisions in the proposed SFAR.

After careful consideration of these comments, the FAA has decided to issue the SFAR as proposed. The FAA disagrees with ATA's assertion that the SFAR should also apply to air carriers operating larger planes, but instead agrees with ADF that the rules in part 121 requiring adequate communications systems and a full aircraft dispatching system for scheduled operations have contributed for many years to a high level of safety that should be applied as well to scheduled operations affected by the commuter rule. The purpose of the SFAR is to allow the FAA, the affected commuter operators, and the communications equipment industry to work together to bring every commuter operator into compliance with part 121 as soon as possible. However, the FAA's experience in implementing the commuter rule has been that there *are* gaps in certain remote areas that could not be remedied before the March 20, 1997, deadline for implementing the commuter rule. This is the exception rather than the rule. The limited number of commuter operators who have not been able to close the communications gaps along all of their routes have been evaluating systems and trying to develop plans for complying with § 121.99.

rule, the FAA has found that in the unique environment of Alaska, it is difficult to recruit and retain qualified certificated aircraft dispatchers. The commenters' fears about the potential for contract dispatchers or dispatchers exercising operational control over competitors' flights are unwarranted because the SFAR allows for the sharing of dispatchers by 2 companies, not for the contracting out of dispatching services. The 2 companies would be authorized to share a dispatcher only when the companies can show to the FAA that they have joint plans for complying with the dispatcher training and qualification rules and that the number of flights for which the dispatcher would be responsible would not be beyond the capacity of a single dispatcher.

The FAA does not think that authority to operate under the SFAR would provide an economic advantage to a commuter operator because the authority will be granted in a very limited number of cases and only when the operator has shown to the FAA that it is proceeding on a plan and has a schedule for coming into full compliance with the part 121 rules within 4 years.

8. The proposal amended § 121.99 to allow for "other means of communication approved by the Administrator" as an alternative to the two-way radio communication system required by that section. This would allow certificate holders to use other types of technology, such as datalink or telephonic communication systems, to comply with this section.

No comments were received on the proposal and the changes to § 121.99 are adopted as proposed.

9. The proposal amended the manual requirements in §§ 121.137, 121.139, 125.71, 135.21, and 135.427 to make these sections compatible with § 121.133. (Section 121.133 had been revised in the commuter rule to allow a certificate holder to prepare its maintenance manual in any form acceptable to the Administrator.) Therefore, the FAA proposed in the NPRM to include the language "any form acceptable to the Administrator" in the sections above.

The proposal also amended these sections to clarify that, regardless of the form of the maintenance manual, it must be retrievable in the English language. Certificate holders who purchase equipment from foreign manufacturers or previous foreign owners must ensure that the maintenance instructions to be followed by their employees and reviewed by the FAA are in English.

No comments were received on the proposal and the changes to the manual requirements are adopted as proposed.

10. The proposal revised § 121.305(j) to clarify the requirements for third attitude indicators for turbopropeller-powered airplanes having a passenger seat configuration of 30 seats or fewer and turbo-propeller-powered airplanes with more than 30 seats. The latter have been required to have third attitude indicators since October 1994.

No comments were received on the proposal and the changes to § 121.305 are adopted as proposed.

11. The FAA proposed to allow 2 years from the date of the final rule for the affected operators to install emergency exit locating signs that comply with § 121.310(b)(1). The additional 2 years for compliance would be granted to both in-service 10–19 seat airplanes and newly manufactured 10–19 seat airplanes. Paragraph (b)(1) of § 121.310 requires that the identity and location of each passenger emergency exit must be marked so that the exit is recognizable from a distance equal to the width of the cabin and that the location of the exit must be indicated by a sign visible to occupants approaching along the main passenger aisle. Paragraph (b)(1)(i) requires that one of the locating signs must be on the ceiling of the cabin. Because of limited headroom, most of the 10–19 seat airplanes used by operators subject to the commuter rule do not have locating signs on the ceiling, but have been allowed to use two-dimensional signs mounted flush to the cabin sidewalls. For these 10–19 seat airplanes with limited headroom, the simplest means of complying may be to replace the two-dimensional signs with beveled or three-dimensional signs that can be read easily at the cabin extremes; that type of sign would function to both identify and locate the corresponding exit.

12. The proposal amended § 121.133(c) to correct an omission concerning the use of quick-donning oxygen masks at flight levels above 250 as a substitute for having one pilot at the controls wear and use an oxygen mask at all times. For pressurized turbine engine powered airplanes, § 121.333(c) has allowed the availability of a quick-donning mask to be a substitute for wearing and using a mask at all times at or below flight level 410. However, under § 135.89(b)(3) at least one pilot at the controls of a pressurized airplane is required at altitudes above flight level 350 to wear and use an oxygen mask at all times.

For those 10–30 passenger airplanes that will be operating under part 121 as a result of the commuter rule amendments, the proposal stated that flight level 350 rather than flight level 410 would continue to be the appropriate altitude at which at least one pilot at the controls would be required to wear an oxygen mask at all times.

Since the commuter rule was not intended to relax this requirement, the FAA proposed to amend § 121.333(c) to incorporate the requirements of § 135.89(b)(3) for airplanes with less than 31 seats, excluding any required crewmember seat, and a payload capacity of 7,500 pounds or less.

No comments were received on the proposal and the changes to § 121.333 are adopted as proposed.

13. The proposal amended § 121.437 to eliminate a redundancy that was created by an earlier corrective amendment and by adding a new sentence that would have the effect of codifying an existing exemption that had been in effect since 1980.

The FAA granted the ATA an exemption from § 121.437 (Exemption No. 2965), allowing a pilot employed by a part 121 certificate holder as a flight crewmember to be issued additional category and class ratings to the pilot's certificate if the pilot had satisfactorily completed the appropriate training requirements of subpart N and the proficiency check requirements of § 121.441 by presenting proof of this to the Administrator. This exemption was extended 9 times and is due to expire on July 31, 1997.

Over the 16 years that the exemption has been in effect, there has been no known derogation of safety. Therefore, since the FAA has not had the resources to conduct each proficiency check required by the rule, the FAA proposed to codify Exemption 2965 into § 121.437.

ATA supports the proposed changes to § 121.437 and adds that codifying the exemption will also reduce the administrative burden on both the airlines and the FAA. The final rule is adopted as proposed.

Tables 1–4 From the Commuter Rule

In the preamble of the NPRM for this final rule, the FAA corrected and republished 3 tables that were a part of the original commuter rule preamble: Table 2, *Comparable Sections in Parts 121 and 135*, and Tables 3 and 4, the Derivation and Distribution Tables for part 119. There have been no changes to these informational tables since the NPRM was published (February 3, 1997; 62 FR 5076). The FAA is in the process of updating Table 1, *Summary of New Equipment and Performance Modifications for Affected Commuters*, originally published in the commuter rule, to present the delayed compliance dates for the equipment and performance modifications required by the commuter rule and subsequent amendments.

Any person may obtain a copy of Tables 1–4 by mail by submitting a request to: Linda Williams, Federal Aviation Administration, Office of Rulemaking, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9685.

Federalism Implications

The regulations herein do not have substantial direct effects on the states, on the relationship between national government and the states, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

The FAA has determined that this final rule imposes no additional burden on any person. Accordingly, it has been determined that the action: (1) Is not a significant rule under Executive Order 12866; and (2) is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). No cost impact is expected to result and a full regulatory evaluation is not required. In addition, the FAA certifies that the final rule will not have a significant cost impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Adoption of Amendments

Accordingly, the Federal Aviation Administration (FAA) amends 14 CFR parts 21, 25, 91, 119, 121, 125, and 135 effective March 12, 1997.

The authority citation for part 119 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 44105, 44106, 44111, 44701-44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46013, 46105.

§ 119.1 Applicability.

(a) This part applies to each person operating or intending to operate civil aircraft—

(1) As an air carrier or commercial operator, or both, in air commerce; or

(2) When common carriage is not involved, in operations of U.S.-registered civil airplanes with a seat configuration of 20 or more passengers, or a maximum payload capacity of 6,000 pounds or more.

(b) This part prescribes—

(1) The types of air operator certificates issued by the Federal Aviation Administration, including air carrier certificates and operating certificates;

(2) The certification requirements an operator must meet in order to obtain and hold a certificate authorizing operations under part 121, 125, or 135 of this chapter and operations specifications for each kind of operation to be conducted and each class and size of aircraft to be operated under part 121 or 135 of this chapter;

(3) The requirements an operator must meet to conduct operations under part 121, 125, or 135 of this chapter and in operating each class and size of aircraft authorized in its operations specifications;

(4) Requirements affecting wet leasing of aircraft and other arrangements for transportation by air;

(5) Requirements for obtaining deviation authority to perform operations under a military contract and obtaining deviation authority to perform an emergency operation; and

(6) Requirements for management personnel for operations conducted under part 121 or part 135 of this chapter.

(c) Persons subject to this part must comply with the other requirements of this chapter, except where those requirements are modified by or where additional requirements are imposed by part 119, 121, 125, or 135 of this chapter.

(d) This part does not govern operations conducted under part 129, 133, 137, or 139 of this chapter.

(e) Except for operations when common carriage is not involved conducted with airplanes having a passenger-seat configuration of 20 seats or more, excluding any required crewmember seat, or a payload capacity of 6,000 pounds or more, this part does not apply to—

(1) Student instruction;

(2) Nonstop sightseeing flights conducted with aircraft having a passenger seat configuration of 30 or fewer, excluding each crewmember seat, and a payload capacity of 7,500 pounds or less, that begin and end at the same airport, and are conducted within a 25 statute mile radius of that airport; however, for nonstop sightseeing flights for compensation or hire conducted in the vicinity of the Grand Canyon National Park, Arizona, the requirements of SFAR 50-2 of this part and SFAR 38-2 of 14 CFR part 121 or 14 CFR part 119, as applicable, apply;

(3) Ferry or training flights;

(4) Aerial work operations, including—

(i) Crop dusting, seeding, spraying, and bird chasing;

(ii) Banner towing;

(iii) Aerial photography or survey;

(iv) Fire fighting;

(v) Helicopter operations in construction or repair work (but it does apply to transportation to and from the site of operations); and

(vi) Powerline or pipeline patrol;

(5) Sightseeing flights conducted in hot air balloons;

(6) Nonstop flights conducted within a 25 statute mile radius of the airport of takeoff carrying persons for the purpose of intentional parachute jumps;

(7) Helicopter flights conducted within a 25 statute mile radius of the airport of takeoff if—

(i) Not more than two passengers are carried in the helicopter in addition to the required flightcrew;

(ii) Each flight is made under day VFR conditions;

information that the office requests;

(v) The number of flights does not exceed a total of six in any calendar year;

(vi) Each flight has been approved by the Administrator; and

(vii) Cargo is not carried in or on the helicopter;

(8) Operations conducted under part 133 of this chapter or 375 of this title;

(9) Emergency mail service conducted under 49 U.S.C. 41906; or

(10) Operations conducted under the provisions of § 91.321 of this chapter.

§ 119.2 Compliance with 14 CFR part 119 or SFAR 38-2 of [parts 121 and 135 of this chapter.]

(a) [Each certificate holder that before January 19, 1996, was issued an air carrier certificate or operating certificate and operations specifications under the requirements of part 121, 135, or SFAR 38-2 of parts 121 and 135 of this chapter shall continue to comply with SFAR 38-2 of parts 121 and 135 of this chapter until March 20, 1997, or until the date on which the certificate holder is issued operations specifications in accordance with part 119, whichever occurs first. In addition, persons conducting operations under SFAR 38-2 of parts 121 and 135 of this chapter shall continue to comply with the applicable requirements of §§ 121.6, 121.57, 121.59, 121.61, 121.71 through 121.83, 135.5, 135.11(c), 135.15, 135.17, 135.27, 135.29, 135.33, 135.35, 135.37, and 135.39 of this chapter as in effect on January 18, 1996, until March 20, 1997, or until the date on which the certificate holder is issued operations specifications in accordance with part 119, whichever occurs first. If a certificate holder is issued operations specifications in accordance with part 119 before March 20, 1997, then, notwithstanding all provisions in SFAR 38-2 of parts 121 and 135 of this chapter, such certificate holder shall comply with the provisions of part 119. A copy of these regulations may be obtained from the Federal Aviation Administration, Office of Rulemaking (ARM), 800 Independ-

parts 121 and 135 of this chapter.]
[(Amdt. 119-2, Eff. 7/15/96)]

§ 119.3 Definitions.

For the purpose of subchapter G of this chapter, the term—

All-cargo operation means any operation for compensation or hire that is other than a passenger-carrying operation or, if passengers are carried, they are only those specified in § 121.583(a) or § 135.85 of this chapter.

Certificate-holding district office means the Flight Standards District Office that has responsibility for administering the certificate and is charged with the overall inspection of the certificate holder's operations.

Commuter operation means any scheduled operation conducted by any person operating one of the following types of aircraft with a frequency of operations of at least five round trips per week on at least one route between two or more points according to the published flight schedules:

(1) Airplanes, other than turbojet powered airplanes, having a maximum passenger-seat configuration of 9 seats or less, excluding each crewmember seat, and a maximum payload capacity of 7,500 pounds or less; or

(2) Rotorcraft.

Direct air carrier means a person who provides or offers to provide air transportation and who has control over the operational functions performed in providing that transportation.

Domestic operation means any scheduled operation conducted by any person operating any airplane described in paragraph (1) of this definition at locations described in paragraph (2) of this definition:

(1) Airplanes:

(i) Turbojet-powered airplanes;

(ii) Airplanes having a passenger-seat configuration of more than 9 passenger seats, excluding each crewmember seat; or

(iii) Airplanes having a payload capacity of more than 7,500 pounds.

(2) Locations:

or

(iv) When specifically authorized by the Administrator, operations between any point within the 48 contiguous States of the United States or the District of Columbia and any specifically authorized point located outside the 48 contiguous States of the United States or the District of Columbia.

Empty weight means the weight of the airframe, engines, propellers, rotors, and fixed equipment. Empty weight excludes the weight of the crew and payload, but includes the weight of all fixed ballast, unusable fuel supply, undrainable oil, total quantity of engine coolant, and total quantity of hydraulic fluid.

Flag operation means any scheduled operation conducted by any person operating any airplane described in paragraph (1) of this definition at the locations described in paragraph (2) of this definition:

(1) Airplanes:

- (i) Turbojet-powered airplanes;
- (ii) Airplanes having a passenger-seat configuration of more than 9 passenger seats, excluding each crewmember seat; or
- (iii) Airplanes having a payload capacity of more than 7,500 pounds.

(2) Locations:

- (i) Between any point within the State of Alaska or the State of Hawaii or any territory or possession of the United States and any point outside the State of Alaska or the State of Hawaii or any territory or possession of the United States, respectively; or
- (ii) Between any point within the 48 contiguous States of the United States or the District of Columbia and any point outside the 48 contiguous States of the United States and the District of Columbia.
- (iii) Between any point outside the U.S. and another point outside the U.S.

Justifiable aircraft equipment means any equipment necessary for the operation of the aircraft. It does not include equipment or ballast specifically installed, permanently or otherwise, for the purpose

(1) For an aircraft for which a maximum zero fuel weight is prescribed in FAA technical specifications, the maximum zero fuel weight, less empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum flightcrew, foods and beverages, and supplies and equipment related to foods and beverages, but not including disposable fuel or oil).

(2) For all other aircraft, the maximum certificated takeoff weight of an aircraft, less the empty weight, less all justifiable aircraft equipment, and less the operating load (consisting of minimum fuel load, oil, and flightcrew). The allowance for the weight of the crew, oil, and fuel is as follows:

(i) Crew—for each crewmember required by the Federal Aviation Regulations—

(A) For male flight crewmembers—180 pounds.

(B) For female flight crewmembers—140 pounds.

(C) For male flight attendants—180 pounds.

(D) For female flight attendants—130 pounds.

(E) For flight attendants not identified by gender—140 pounds.

(ii) Oil—350 pounds or the oil capacity as specified on the Type Certificate Data Sheet.

(iii) Fuel—the minimum weight of fuel required by the applicable Federal Aviation Regulations for a flight between domestic points 174 nautical miles apart under VFR weather conditions that does not involve extended overwater operations.

Maximum zero fuel weight means the maximum permissible weight of an aircraft with no disposable fuel or oil. The zero fuel weight figure may be found in either the aircraft type certificate data sheet, the approved Aircraft Flight Manual, or both.

Noncommon carriage means an aircraft operation for compensation or hire that does not involve a holding out to others.

On-demand operation means any operation for compensation or hire that is one of the following:

- (1) Passenger-carrying operations [conducted as a public charter under part 380 of this title

of 30 seats or fewer, excluding each crewmember seat, and a payload capacity of 7,500 pounds or less, except that operations using a specific airplane that is also used in domestic or flag operations and that is so listed in the operations specifications as required by § 119.49(a)(4) for those operations are considered supplemental operations;

(ii) Noncommon or private carriage operations conducted with airplanes having a passenger-seat configuration of less than 20 seats, excluding each crewmember seat, and a payload capacity of less than 6,000 pounds; or

(iii) Any rotorcraft operation.

(2) Scheduled passenger-carrying operations conducted with one of the following types of aircraft with a frequency of operations of less than five round trips per week on at least one route between two or more points according to the published flight schedules:

(i) Airplanes, other than turbojet powered airplanes, having a maximum passenger-seat configuration of 9 seats or less, excluding each crewmember seat, and a maximum payload capacity of 7,500 pounds or less; or

(ii) Rotorcraft.

(3) All-cargo operations conducted with airplanes having a payload capacity of 7,500 pounds or less, or with rotorcraft.

Passenger-carrying operation means any aircraft operation carrying any person, unless the only persons on the aircraft are those identified in § 121.583(a) or § 135.85 of this chapter, as applicable. An aircraft used in a passenger-carrying operation may also carry cargo or mail in addition to passengers.

Principal base of operations means the primary operating location of a certificate holder as established by the certificate holder.

Provisional airport means an airport approved by the Administrator for use by a certificate holder for the purpose of providing service to a community when the regular airport used by the certificate holder is not available.

departure time, and arrival location. It does not include any [passenger-carrying operation that is conducted as a public charter operation under part 380 of this title.]

Supplemental operation means any common carriage operation for compensation or hire conducted with any airplane described in paragraph (1) of this definition that is a type of operation described in paragraph (2) of this definition:

(1) Airplanes:

(i) Airplanes having a passenger-seat configuration of more than 30 seats, excluding each crewmember seat;

(ii) Airplanes having a payload capacity of more than 7,500 pounds; or

(iii) Each propeller-powered airplane having a passenger-seat configuration of more than 9 seats and less than 31 seats, excluding each crewmember seat, that is also used in domestic or flag operations and that is so listed in the operations specifications as required by § 119.49(a)(4) for those operations; or

(iv) Each turbojet powered airplane having a passenger seat configuration of 1 or more and less than 31 seats, excluding each crewmember seat, that is also used in domestic or flag operations and that is so listed in the operations specifications as required by § 119.49(a)(4) for those operations.

(2) Types of operation:

(i) [Operations for which the departure time, departure location, and arrival location are specifically negotiated with the customer or the customer's representative;

(ii) [All-cargo operations; or

[(iii) Passenger-carrying public charter operations conducted under part 380 of this title.]

Wet lease means any leasing arrangement whereby a person agrees to provide an entire aircraft and at least one crewmember. A wet lease does not include a code-sharing arrangement.

When common carriage is not involved or operations not involving common carriage means any of the following:

(1) Noncommon carriage.

§ 119.5 Certifications, authorizations, and prohibitions.

(a) A person authorized by the Administrator to conduct operations as a direct air carrier will be issued an Air Carrier Certificate.

(b) A person who is not authorized to conduct direct air carrier operations, but who is authorized by the Administrator to conduct operations as a U.S. commercial operator, will be issued an Operating Certificate.

(c) A person who is not authorized to conduct direct air carrier operations, but who is authorized by the Administrator to conduct operations when common carriage is not involved as an operator of U.S.-registered civil airplanes with a seat configuration of 20 or more passengers, or a maximum payload capacity of 6,000 pounds or more, will be issued an Operating Certificate.

(d) A person authorized to engage in common carriage under part 121 or part 135 of this chapter, or both, shall be issued only one certificate authorizing such common carriage, regardless of the kind of operation or the class or size of aircraft to be operated.

(e) A person authorized to engage in noncommon or private carriage under part 125 or part 135 of this chapter, or both, shall be issued only one certificate authorizing such carriage, regardless of the kind of operation or the class or size of aircraft to be operated.

(f) A person conducting operations under more than one paragraph of § 119.21, § 119.23, or § 119.25 shall conduct those operations in compliance with—

(1) The requirements specified in each paragraph of those sections for the kind of operation conducted under that paragraph; and

(2) The appropriate authorizations, limitations, and procedures specified in the operations specifications for each kind of operation.

(g) No person may operate as a direct air carrier or as a commercial operator without, or in violation of, an appropriate certificate and appropriate operations specifications. No person may operate as a direct air carrier or as a commercial operator in

major operations shall not conduct any operations in noncommon carriage.

(i) No person may operate as a direct air carrier without holding appropriate economic authority from the Department of Transportation.

(j) A certificate holder under this part may not operate aircraft under part 121 or part 135 of this chapter in a geographical area unless its operations specifications specifically authorize the certificate holder to operate in that area.

[(k) No person may advertise or otherwise offer to perform an operation subject to this part unless that person is authorized by the Federal Aviation Administration to conduct that operation.]

[(l) No person may operate an aircraft under this part, part 121 of this chapter, or part 135 of this chapter in violation of an air carrier operating certificate, operating certificate, or appropriate operations specifications issued under this part.]

[(Amdt. 119-3, Eff. 3/12/97)]

§ 119.7 Operations specifications.

(a) Each certificate holder's operations specifications must contain—

(1) The authorizations, limitations, and certain procedures under which each kind of operation, if applicable, is to be conducted; and

(2) Certain other procedures under which each class and size of aircraft is to be operated.

(b) Except for operations specifications paragraphs identifying authorized kinds of operations, operations specifications are not a part of a certificate.

§ 119.9 Use of business names.

(a) A certificate holder under this part may not operate an aircraft under part 121 or part 135 of this chapter using a business name other than a business name appearing in the certificate holder's operations specifications.

(b) [No person may operate an aircraft under part 121 or part 135 of this chapter unless the name of the certificate holder who is operating the aircraft, or the air carrier or operating certificate



§ 119.21 Commercial operators engaged in intrastate common carriage and direct air carriers.

(a) Each person who conducts airplane operations as a commercial operator engaged in intrastate common carriage of persons or property for compensation or hire in air commerce, or as a direct air carrier, shall comply with the certification and operations specifications requirements in subpart C of this part, and shall conduct its:

(1) Domestic operations in accordance with the applicable requirements of part 121 of this chapter, and shall be issued operations specifications for those operations in accordance with those requirements. However, based on a showing of safety in air commerce, the Administrator may permit persons who conduct domestic operations between any point located within any of the following Alaskan islands and any point in the State of Alaska to comply with the requirements applicable to flag operations contained in subpart U of part 121 of this chapter:

[(i) The Aleutian Islands.

[(ii) The Pribilof Islands.

[(iii) The Shumagin Islands.]

(2) Flag operations in accordance with the applicable requirements of part 121 of this chapter, and shall be issued operations specifications for those operations in accordance with those requirements.

(3) Supplemental operations in accordance with the applicable requirements of part 121 of this chapter, and shall be issued operations specifications for those operations in accordance with those requirements. However, based on a determination of safety in air commerce, the Administrator may authorize or require those operations to be conducted under paragraph (a)(1) or (a)(2) of this section.

(4) Commuter operations in accordance with the applicable requirements of part 135 of this chapter, and shall be issued operations specifications for those operations in accordance with those requirements.

(5) On-demand operations in accordance with the applicable requirements of part 135 of this chapter, and shall be issued operations specifications for those operations in accordance with those requirements.

(b) Persons who are subject to the requirements of paragraph (a)(4) of this section may conduct those operations in accordance with the requirements of paragraph (a)(1) or (a)(2) of this section, provided they obtain authorization from the Administrator.

(c) Persons who are subject to the requirements of paragraph (a)(5) of this section may conduct those operations in accordance with the requirements of paragraph (a)(3) of this section, provided they obtain authorization from the Administrator. (Amdt. 119-2, Eff. 7/15/96); [(Amdt. 119-3, Eff. 3/12/97)]

§ 119.23 Operators engaged in passenger-carrying operations, cargo operations, or both with airplanes when common carriage is not involved.

(a) Each person who conducts operations when common carriage is not involved with airplanes having a passenger-seat configuration of 20 seats or more, excluding each crewmember seat, or a payload capacity of 6,000 pounds or more, shall, unless deviation authority is issued—

(1) Comply with the certification and operations specifications requirements of part 125 of this chapter;

(2) Conduct its operations with those airplanes in accordance with the requirements of part 125 of this chapter; and

(3) Be issued operations specifications in accordance with those requirements.

(b) [Each person who conducts noncommon carriage (except as provided in § 91.501(b) of this chapter) or private carriage operations for compensation or hire with airplanes having a passenger-seat configuration of less than 20 seats, excluding each crewmember seat, and a payload capacity of less than 6,000 pounds shall—]

accordance with those requirements.
[(Amdt. 119-2, Eff. 7/15/96)]

§ 119.25 Rotorcraft operations: Direct air carriers and commercial operators.

Each person who conducts rotorcraft operations for compensation or hire must comply with the

(b) On-demand operations in accordance with the applicable requirements of part 135 of this chapter, and shall be issued operations specifications for those operations in accordance with those requirements.

§ 119.31 Applicability.

This subpart sets out certification requirements and prescribes the content of operations specifications and certain other requirements for operations conducted under part 121 or part 135 of this chapter.

§ 119.33 General requirements.

(a) A person may not operate as a direct air carrier unless that person—

- (1) Is a citizen of the United States;
- (2) Obtains an Air Carrier Certificate; and
- (3) Obtains operations specifications that prescribe the authorizations, limitations, and procedures under which each kind of operation must be conducted.

(b) A person other than a direct air carrier may not conduct any commercial passenger or cargo aircraft operation for compensation or hire under part 121 or part 135 of this chapter unless that person—

- (1) Is a citizen of the United States;
- (2) Obtains an Operating Certificate; and
- (3) Obtains operations specifications that prescribe the authorizations, limitations, and procedures under which each kind of operation must be conducted.

(c) [Each applicant for a certificate under this part and each applicant for operations specifications authorizing a new kind of operation that is subject to § 121.163 or § 135.145 of this chapter shall conduct proving tests as authorized by the Administrator during the application process for authority to conduct operations under part 121 or part 135 of this chapter.] All proving tests must be conducted in a manner acceptable to the Administrator. All proving tests must be conducted under the appropriate operating and maintenance requirements of part 121 or 135 of this chapter that would apply if the applicant were fully certificated. The Administrator will issue a letter of authorization

to each person stating the various authorities under which the proving tests shall be conducted.

[(Amdt. 119-2, Eff. 7/15/96)]

§ 119.35 [Certificate application requirements for all operators.]

(a) [A person applying to the Administrator for an Air Carrier Certificate or Operating Certificate under this part (applicant) must submit an application—

- (1) [In a form and manner prescribed by the Administrator; and
- (2) [Containing any information the Administrator requires the applicant to submit.

(b) [Each applicant must submit the application to the Administrator at least 90 days before the date of intended operation.]

[(Amdt. 119-3, Eff. 3/12/97)]

[§ 119.36 Additional certificate application requirements for commercial operators.]

[(a) Each applicant for the original issue of an operating certificate for the purpose of conducting intrastate common carriage operations under part 121 or part 135 of this chapter must submit an application in a form and manner prescribed by the Administrator to the Flight Standards District Office in whose area the applicant proposes to establish or has established his or her principal base of operations.

[(b) Each application submitted under paragraph (a) of this section must contain a signed statement showing the following:

- (1) For corporate applicants:
 - (i) The name and address of each stockholder who owns 5 percent or more of the total voting stock of the corporation, and if that stockholder is not the sole beneficial owner of the stock, the name and address of each beneficial owner. An individual is considered to own the stock owned, directly or

directly or indirectly controlling or controlled by the applicant and each person under direct or indirect control with the applicant.

(2) For non-corporate applicants:

(i) The name and address of each person having a financial interest therein and the nature and extent of that interest.

(ii) The name and address of each person employed or who will be employed in a management position described in §§ 119.65 and 119.69, as applicable.

[(c) In addition, each applicant for the original issue of an operating certificate under paragraph (a) of this section must submit with the application a signed statement showing—

(1) The nature and scope of its intended operation, including the name and address of each person, if any, with whom the applicant has a contract to provide services as a commercial operator and the scope, nature, date, and duration of each of those contracts; and

(2) For applicants intending to conduct operations under part 121 of this chapter, the financial information listed in paragraph (e) of this section.

[(d) Each applicant for, or holder of, a certificate issued under paragraph (a) of this section, shall notify the Administrator within 10 days after—

(1) A change in any of the persons, or the names and addresses of any of the persons, submitted to the Administrator under paragraph (b)(1) or (b)(2) of this section; or

(2) For applicants intending to conduct operations under part 121 of this chapter, a change in the financial information submitted to the Administrator under paragraph (e) of this section that occurs while the application for the issue is pending before the FAA and that would make the applicant's financial situation substantially less favorable than originally reported.

[(e) Each applicant for the original issue of an operating certificate under paragraph (a) of this section who intends to conduct operations under part 121 of this chapter must submit the following financial information:

(3) An itemization of claims in litigation, if any, against the applicant as of the date of application showing each claimant's name and address and a description and the amount of the claim.

(4) A detailed projection of the proposed operation covering 6 complete months after the month in which the certificate is expected to be issued including—

(i) Estimated amount and source of both operating and nonoperating revenue, including identification of its existing and anticipated income producing contracts and estimated revenue per mile or hour of operation by aircraft type;

(ii) Estimated amount of operating and nonoperating expenses by expense objective classification; and

(iii) Estimated net profit or loss for the period.

(5) An estimate of the cash that will be needed for the proposed operations during the first 6 months after the month in which the certificate is expected to be issued, including—

(i) Acquisition of property and equipment (explain);

(ii) Retirement of debt (explain);

(iii) Additional working capital (explain);

(iv) Operating losses other than depreciation and amortization (explain); and

(v) Other (explain).

(6) An estimate of the cash that will be available during the first 6 months after the month in which the certificate is expected to be issued, from—

(i) Sale of property or flight equipment (explain);

(ii) New debt (explain);

(iii) New equity (explain);

(iv) Working capital reduction (explain);

(v) Operations (profits) (explain);

(vi) Depreciation and amortization (explain); and

(vii) Other (explain).

cial resources to conduct his or her operations with the degree of safety required in the public interest.

[(f) Each financial statement containing financial information required by paragraph (e) of this section must be based on accounts prepared and maintained on an accrual basis in accordance with generally accepted accounting principles applied on a consistent basis, and must contain the name and address of the applicant's public accounting firm, if any. Information submitted must be signed by an officer, owner, or partner of the applicant or certificate holder.]

[(Amdt. 119-3, Eff. 3/12/97)]

§ 119.37 Contents of an Air Carrier Certificate or Operating Certificate.

The Air Carrier Certificate or Operating Certificate includes—

- (a) The certificate holder's name;
- (b) The location of the certificate holder's principal base of operations;
- (c) The certificate number;
- (d) The certificate's effective date; and
- (e) The name or the designator of the certificate-holding district office.

§ 119.39 Issuing or denying a certificate.

(a) An applicant may be issued an Air Carrier Certificate or Operating Certificate if, after investigation, the Administrator finds that the applicant—

- (1) Meets the applicable requirements of this part;
- (2) Holds the economic authority applicable to the kinds of operations to be conducted, issued by the Department of Transportation, if required; and
- (3) Is properly and adequately equipped in accordance with the requirements of this chapter and is able to conduct a safe operation under appropriate provisions of part 121 or part 135 of this chapter and operations specifications issued under this part.

(b) An application for a certificate may be denied if the Administrator finds that—

§ 119.69(a), as applicable, with an individual who exercised control over or who held the same or a similar position with a certificate holder whose certificate was revoked, or is in the process of being revoked, and that individual materially contributed to the circumstances causing revocation or causing the revocation process;

(4) An individual who will have control over or have a substantial ownership interest in the applicant had the same or similar control or interest in a certificate holder whose certificate was revoked, or is in the process of being revoked, and that individual materially contributed to the circumstances causing revocation or causing the revocation process; or

(5) In the case of an applicant for an Operating Certificate for intrastate common carriage, that for financial reasons the applicant is not able to conduct a safe operation.

§ 119.41 Amending a certificate.

(a) The Administrator may amend any certificate issued under this part if—

(1) The Administrator determines, under 49 U.S.C. 44709 and part 13 of this chapter, that safety in air commerce and the public interest requires the amendment; or

(2) The certificate holder applies for the amendment and the certificate-holding district office determines that safety in air commerce and the public interest allows the amendment.

(b) When the Administrator proposes to issue an order amending, suspending, or revoking all or part of any certificate, the procedure in § 13.19 of this chapter applies.

(c) When the certificate holder applies for an amendment of its certificate, the following procedure applies:

(1) The certificate holder must file an application to amend its certificate with the certificate-holding district office at least 15 days before the date proposed by the applicant for the amendment to become effective, unless the administrator approves filing within a shorter period; and

made within 30 days after the certificate holder receives the notice of denial; and

(2) The certificate holder must petition for reconsideration to the Director, Flight Standards Service.

§ 119.43 Certificate holder's duty to maintain operations specifications.

(a) Each certificate holder shall maintain a complete and separate set of its operations specifications at its principal base of operations.

(b) Each certificate holder shall insert pertinent excerpts of its operations specifications, or references thereto, in its manual and shall—

(1) Clearly identify each such excerpt as a part of its operations specifications; and

(2) State that compliance with each operations specifications requirement is mandatory.

(c) Each certificate holder shall keep each of its employees and other persons used in its operations informed of the provisions of its operations specifications that apply to that employee's or person's duties and responsibilities.

§ 119.45 [Reserved]

§ 119.47 Maintaining a principal base of operations, main operations base, and main maintenance base; change of address.

(a) Each certificate holder must maintain a principal base of operations. Each certificate holder may also establish a main operations base and a main maintenance base which may be located at either the same location as the principal base of operations or at separate locations.

(b) At least 30 days before it proposes to establish or change the location of its principal base of operations, its main operations base, or its main maintenance base, a certificate holder must provide written notification to its certificate-holding district office.

or contact for correspondence between the FAA and the certificate holder and the name and mailing address of the certificate holder's agent for service.

(2) Other business names under which the certificate holder may operate.

(3) Reference to the economic authority issued by the Department of Transportation, if required.

(4) Type of aircraft, registration markings, and serial numbers of each aircraft authorized for use, each regular and alternate airport to be used in scheduled operations, and, except for commuter operations, each provisional and refueling airport.

(i) Subject to the approval of the Administrator with regard to form and content, the certificate holder may incorporate by reference the items listed in paragraph (a)(4) of this section into the certificate holder's operations specifications by maintaining a current listing of those items and by referring to the specific list in the applicable paragraph of the operations specifications.

(ii) The certificate holder may not conduct any operation using any aircraft or airport not listed.

(5) Kinds of operations authorized.

(6) Authorization and limitations for routes and areas of operations.

(7) Airport limitations.

(8) Time limitations, or standards for determining time limitations, for overhauling, inspecting, and checking airframes, engines, propellers, rotors, appliances, and emergency equipment.

(9) Authorization for the method of controlling weight and balance of aircraft.

(10) Interline equipment interchange requirements, if relevant.

(11) Aircraft wet lease information required by § 119.53(c).

(12) Any authorized deviation and exemption granted from any requirement of this chapter.

(13) Any other item the Administrator determines is necessary.

(b) Each certificate holder conducting supplemental operations must obtain operations specifications containing all of the following:

aircraft holder may operate.

(3) Reference to the economic authority issued by the Department of Transportation, if required.

(4) Type of aircraft, registration markings, and serial number of each aircraft authorized for use.

(i) Subject to the approval of the Administrator with regard to form and content, the certificate holder may incorporate by reference the items listed in paragraph (b)(4) of this section into the certificate holder's operations specifications by maintaining a current listing of those items and by referring to the specific list in the applicable paragraph of the operations specifications.

(ii) The certificate holder may not conduct any operation using any aircraft not listed.

(5) Kinds of operations authorized.

(6) Authorization and limitations for routes and areas of operations.

(7) Special airport authorizations and limitations.

(8) Time limitations, or standards for determining time limitations, for overhauling, inspecting, and checking airframes, engines, propellers, appliances, and emergency equipment.

(9) Authorization for the method of controlling weight and balance of aircraft.

(10) Aircraft wet lease information required by § 119.53(c).

(11) Any authorization or requirement to conduct supplemental operations as provided by § 119.21(a)(3)(i) or (ii).

(12) Any authorized deviation or exemption from any requirement of this chapter.

(13) Any other item the Administrator determines is necessary.

(c) Each certificate holder conducting on-demand operations must obtain operations specifications containing all of the following:

(1) The specific location of the certificate holder's principal base of operations, and if different, the address that shall serve as the primary point of contact for correspondence between the FAA and the name and mailing address of the certificate holder's agent for service.

serial number of each aircraft that is subject to an airworthiness maintenance program required by § 135.411(a)(2) of this chapter.

(i) Subject to the approval of the Administrator with regard to form and content, the certificate holder may incorporate by reference the items listed in paragraph (c)(6) of this section into the certificate holder's operations specifications by maintaining a current listing of those items and by referring to the specific list in the applicable paragraph of the operations specifications.

(ii) The certificate holder may not conduct any operation using any aircraft not listed.

(7) Registration markings of each aircraft that is to be inspected under an approved aircraft inspection program under § 135.419 of this chapter.

(8) Time limitations or standards for determining time limitations, for overhauls, inspections, and checks for airframes, engines, propellers, rotors, appliances, and emergency equipment of aircraft that are subject to an airworthiness maintenance program required by § 135.411(a)(2) of this chapter.

(9) Additional maintenance items required by the Administrator under § 135.421 of this chapter.

(10) Aircraft wet lease information required by § 119.53(c).

(11) Any authorized deviation or exemption from any requirement of this chapter.

(12) Any other item the Administrator determines is necessary.

§ 119.51 Amending operations specifications.

(a) The Administrator may amend any operations specifications issued under this part if—

(1) The Administrator determines that safety in air commerce and the public interest require the amendment; or

(2) The certificate holder applies for the amendment, and the Administrator determines that safety in air commerce and the public interest allows the amendment.

a reasonable period (but not less than 7 days) within which the certificate holder may submit written information, views, and arguments on the amendment.

(3) After considering all material presented, the certificate-holding district office notifies the certificate holder of—

(i) The adoption of the proposed amendment;

(ii) The partial adoption of the proposed amendment; or

(iii) The withdrawal of the proposed amendment.

(4) If the certificate-holding district office issues an amendment to the operations specifications, it becomes effective not less than 30 days after the certificate holder receives notice of it unless—

(i) The certificate-holding district office finds under paragraph (e) of this section that there is an emergency requiring immediate action with respect to safety in air commerce; or

(ii) The certificate holder petitions for reconsideration of the amendment under paragraph (d) of this section.

(c) When the certificate holder applies for an amendment to its operations specifications, the following procedure applies:

(1) The certificate holder must file an application to amend its operations specifications—

(i) At least 90 days before the date proposed by the applicant for the amendment to become effective, unless a shorter time is approved, in cases of mergers; acquisitions of airline operational assets that require an additional showing of safety (e.g., proving tests); changes in the kind of operation as defined in § 119.3; resumption of operations following a suspension of operations as a result of bankruptcy actions; or the initial introduction of aircraft not before proven for use in air carrier or commercial operator operations.

(ii) At least 15 days before the date proposed by the applicant for the amendment to become effective in all other cases.

(ii) The partial adoption of the applied for amendment; or

(iii) The denial of the applied for amendment. The certificate holder may petition for reconsideration of a denial under paragraph (d) of this section.

(4) If the certificate-holding district office approves the amendment, following coordination with the certificate holder regarding its implementation, the amendment is effective on the date the Administrator approves it.

(d) When a certificate holder seeks reconsideration of a decision from the certificate-holding district office concerning the amendment of operations specifications, the following procedure applies:

(1) The certificate holder must petition for reconsideration of that decision within 30 days of the date that the certificate holder receives a notice of denial of the amendment to its operations specifications, or of the date it receives notice of an FAA-initiated amendment to its operations specifications, whichever circumstance applies.

(2) The certificate holder must address its petition to the Director, Flight Standards Service.

(3) A petition for reconsideration, if filed within the 30-day period, suspends the effectiveness of any amendment issued by the certificate-holding district office unless the certificate-holding district office has found, under paragraph (e) of this section, that an emergency exists requiring immediate action with respect to safety in air transportation or air commerce.

(4) If a petition for reconsideration is not filed within 30 days, the procedures of paragraph (c) of this section apply.

(e) If the certificate-holding district office finds that an emergency exists requiring immediate action with respect to safety in air commerce or air transportation that makes the procedures set out in this section impracticable or contrary to the public interest:

(1) The certificate-holding district office amends the operations specifications and makes the amendment effective on the day the certificate holder receives notice of it.

§ 119.53 Wet leasing of aircraft and other arrangements for transportation by air.

(a) Unless otherwise authorized by the Administrator, prior to conducting operations involving a wet lease, each certificate holder under this part authorized to conduct common carriage operations under this subchapter shall provide the Administrator with a copy of the wet lease to be executed which would lease the aircraft to any other person engaged in common carriage operations under this subchapter, including foreign air carriers, or to any other foreign person engaged in common carriage wholly outside the United States.

(b) No certificate holder under this part may wet lease from a foreign air carrier or any other foreign person or any person not authorized to engage in common carriage.

(c) Upon receiving a copy of a wet lease, the Administrator determines which party to the agreement has operational control of the aircraft and issues amendments to the operations specifications of each party to the agreement, as needed. The lessor must provide the following information to be incorporated into the operations specifications of both parties, as needed.

(1) The names of the parties to the agreement and the duration thereof.

(2) The nationality and registration markings of each aircraft involved in the agreement.

(3) The kind of operation (e.g., domestic, flag, supplemental, commuter, or on-demand).

(4) The airports or areas of operation.

(5) A statement specifying the party deemed to have operational control and the times, airports, or areas under which such operational control is exercised.

(d) In making the determination of paragraph (c) of this section, the Administrator will consider the following:

(1) Crewmembers and training.

(2) Airworthiness and performance of maintenance.

(3) Dispatch.

(4) Servicing the aircraft.

(5) Scheduling.

of this chapter or a foreign person engaged in common carriage wholly outside the United States unless it holds applicable Department of Transportation economic authority, if required, and is authorized under its operations specifications to conduct the same kinds of operations (as defined in § 119.3). The certificate holder conducting the substitute operation must conduct that operation in accordance with the same operations authority held by the certificate holder arranging for the substitute operation. These substitute operations must be conducted between airports for which the substitute certificate holder holds authority for scheduled operations or within areas of operations for which the substitute certificate holder has authority for supplemental or on-demand operations.

(f) A certificate holder under this part may, if authorized by the Department of Transportation under § 380.3 of this title and the Administrator in the case of interstate commuter, interstate domestic, and flag operations, or the Administrator in the case of scheduled intrastate common carriage operations, conduct one or more flights for passengers who are stranded because of the cancellation of their scheduled flights. These flights must be conducted under the rules of part 121 or part 135 of this chapter applicable to supplemental or on-demand operations.

§ 119.55 Obtaining deviation authority to perform operations under a U.S. military contract.

(a) The Administrator may authorize a certificate holder that is authorized to conduct supplemental or on-demand operations to deviate from the applicable requirements of this part, part 121, or part 135 of this chapter in order to perform operations under a U.S. military contract.

(b) A certificate holder that has a contract with the U.S. Department of Defense's Air Mobility Command (AMC) must submit a request for deviation authority to AMC. AMC will review the requests, then forward the carriers' consolidated requests, along with AMC's recommendations, to the FAA for review and action.

operation without deviation authority;

(3) The certificate holder will perform the operation under a contract or subcontract for the benefit of a U.S. armed service; and

(4) The Administrator finds that the deviation is based on grounds other than economic advantage either to the certificate holder or to the United States.

(d) In the case where the Administrator authorizes a deviation under this section, the Administrator will issue an appropriate amendment to the certificate holder's operations specifications.

(e) The Administrator may, at any time, terminate any grant of deviation authority issued under this section.

§119.57 Obtaining deviation authority to perform an emergency operation.

(a) In emergency conditions, the Administrator may authorize deviations if—

(1) Those conditions necessitate the transportation of persons or supplies for the protection of life or property; and

(2) The Administrator finds that a deviation is necessary for the expeditious conduct of the operations.

(b) When the Administrator authorizes deviations for operations under emergency conditions—

(1) The Administrator will issue an appropriate amendment to the certificate holder's operations specifications; or

(2) If the nature of the emergency does not permit timely amendment of the operations specifications—

(i) The Administrator may authorize the deviation orally; and

(ii) The certificate holder shall provide documentation describing the nature of the emergency to the certificate-holding district office within 24 hours after completing the operation.

§119.58 [Removed]

[(Amdt. 119-1, Eff. 2/26/96)]

(1) Make available to the Administrator at the certificate holder's principal base of operations—

(i) The certificate holder's Air Carrier Certificate or the certificate holder's Operating Certificate and the certificate holder's operations specifications; and

(ii) A current listing that will include the location and persons responsible for each record, document, and report required to be kept by the certificate holder under title 49 of the United States Code applicable to the operation of the certificate holder.

(2) Allow the Administrator to make any test or inspection to determine compliance respecting any matter stated in paragraph (a) of this section.

(c) Each employee of, or person used by, the certificate holder who is responsible for maintaining the certificate holder's records must make those records available to the Administrator.

(d) The Administrator may determine a certificate holder's continued eligibility to hold its certificate and/or operations specifications on any grounds listed in paragraph (a) of this section, or any other appropriate grounds.

(e) Failure by any certificate holder to make available to the Administrator upon request, the certificate, operations specifications, or any required record, document, or report is grounds for suspension of all or any part of the certificate holder's certificate and operations specifications.

(f) In the case of operators conducting intrastate common carriage operations, these inspections and tests include inspections and tests of financial books and records.

§119.61 Duration and surrender of certificate and operations specifications.

(a) An Air Carrier Certificate or Operating Certificate issued under this part is effective until—

(1) The certificate holder surrenders it to the Administrator; or

(2) The Administrator suspends, revokes, or otherwise terminates the certificate.

in § 119.63 and fails to follow the procedures of § 119.63 upon resuming that kind of operation; or

(4) The Administrator suspends or revokes the operations specifications for a kind of operation.

(c) Within 30 days after a certificate holder terminates operations under part 135 of this chapter, the operating certificate and operations specifications must be surrendered by the certificate holder to the certificate-holding district office.

§ 119.63 Recency of operation.

(a) Except as provided in paragraph (b) of this section, no certificate holder may conduct a kind of operation for which it holds authority in its operations specifications unless the certificate holder has conducted that kind of operation within the preceding number of consecutive calendar days specified in this paragraph:

(1) For domestic, flag, or commuter operations—30 days.

(2) For supplemental or on-demand operations—90 days, except that if the certificate holder has authority to conduct domestic, flag, or commuter operations, and has conducted domestic, flag or commuter operations within the previous 30 days, this paragraph does not apply.

(b) [If a certificate holder does not conduct a kind of operation for which it is authorized in its operations specifications within the number of calendar days specified in paragraph (a) of this section, it shall not conduct such kind of operation unless—]

(1) It advises the Administrator at least 5 consecutive calendar days before resumption of that kind of operation; and

(2) It makes itself available and accessible during the 5 consecutive calendar day period in the event that the FAA decides to conduct a full inspection reexamination to determine whether the certificate holder remains properly and adequately equipped and able to conduct a safe operation.

[(Amdt. 119-2, Eff. 7/15/96)]

positions.

(1) Director of Safety.

(2) Director of Operations.

(3) Chief Pilot.

(4) Director of Maintenance.

(5) Chief Inspector.

(b) The Administrator may approve positions or numbers of positions other than those listed in paragraph (a) of this section for a particular operation if the certificate holder shows that it can perform the operation with the highest degree of safety under the direction of fewer or different categories of management personnel due to—

(1) The kind of operation involved;

(2) The number and type of airplanes used; and

(3) The area of operations.

(c) The title of the positions required under paragraph (a) of this section or the title and number of equivalent positions approved under paragraph (b) of this section shall be set forth in the certificate holder's operations specifications.

(d) The individuals who serve in the positions required or approved under paragraph (a) or (b) of this section and anyone in a position to exercise control over operations conducted under the operating certificate must—

(1) Be qualified through training, experience, and expertise;

(2) To the extent of their responsibilities, have a full understanding of the following materials with respect to the certificate holder's operation—

(i) Aviation safety standards and safe operating practices;

(ii) 14 CFR Chapter I (Federal Aviation Regulations);

(iii) The certificate holder's operations specifications;

(iv) All appropriate maintenance and airworthiness requirements of this chapter (e.g., parts 1, 21, 23, 25, 43, 45, 47, 65, 91, and 121 of this chapter); and

(v) The manual required by § 121.133 of this chapter; and

section,
(2) List in the manual the names and business addresses of the individuals assigned to those positions; and

(3) Notify the certificate-holding district office within 10 days of any change in personnel or any vacancy in any position listed.

§ 119.67 Management personnel: Qualifications for operations conducted under part 121 of this chapter.

(a) To serve as Director of Operations under § 119.65(a) a person must—

(1) Hold an airline transport pilot certificate;

(2) Have at least 3 years supervisory or managerial experience within the last 6 years in a position that exercised operational control over any operations conducted with large airplanes under part 121 or part 135 of this chapter, or if the certificate holder uses only small airplanes in its operations, the experience may be obtained in large or small airplanes; and

(3) In the case of a person becoming a Director of Operations—

(i) For the first time ever, have at least 3 years experience, within the past 6 years, as pilot in command of a large airplane operated under part 121 or part 135 of this chapter, if the certificate holder operates large airplanes. If the certificate holder uses only small airplanes in its operation, the experience may be obtained in either large or small airplanes.

(ii) In the case of a person with previous experience as a Director of Operations, have at least 3 years experience as pilot in command of a large airplane operated under part 121 or part 135 of this chapter, if the certificate holder operates large airplanes. If the certificate holder uses only small airplanes in its operation, the experience may be obtained in either large or small airplanes.

(b) To serve as Chief Pilot under § 119.65(a) a person must hold an airline transport pilot certificate with appropriate ratings for at least one of the airplanes used in the certificate holder's operation and:

or small airplanes.
(2) In the case of a person with previous experience as a Chief Pilot, have at least 3 years experience, as pilot in command of a large airplane operated under part 121 or part 135 of this chapter, if the certificate holder operates large airplanes. If the certificate holder uses only small airplanes in its operation, the experience may be obtained in either large or small airplanes.

(c) To serve as Director of Maintenance under § 119.65(a) a person must—

(1) Hold a mechanic certificate with airframe and powerplant ratings;

(2) Have 1 year of experience in a position responsible for returning airplanes to service;

(3) Have at least 1 year of experience in a supervisory capacity under either paragraph (c)(4)(i) or (c)(4)(ii) of this section maintaining the same category and class of airplane as the certificate holder uses; and

(4) Have 3 years experience within the past 6 years in one or a combination of the following—

(i) Maintaining large airplanes with 10 or more passenger seats, including at the time of appointment as Director of Maintenance, experience in maintaining the same category and class of airplane as the certificate holder uses; or

(ii) Repairing airplanes in a certificated airframe repair station that is rated to maintain airplanes in the same category and class of airplane as the certificate holder uses.

(d) To serve as Chief Inspector under § 119.65(a) a person must—

(1) Hold a mechanic certificate with both airframe and powerplant ratings, and have held these ratings for at least 3 years;

(2) Have at least 3 years of maintenance experience on different types of large airplanes with 10 or more passenger seats with an air carrier or certificated repair station, 1 year of which must have been as maintenance inspector; and

AFS-200, or the Manager of the Aircraft Maintenance Division, AFS-300, as appropriate, finds that the person has comparable experience, and can effectively perform the functions associated with the position in accordance with the requirements of this chapter and the procedures outlined in the certificate holder's manual. Grants of deviation under this paragraph may be granted after consideration of the size and scope of the operation and the qualifications of the intended personnel. The Administrator may, at any time, terminate any grant of deviation authority issued under this paragraph.】
(Amdt. 119-2, Eff. 7/15/96); 【(Amdt. 119-3, Eff. 3/12/97)】

§ 119.69 Management personnel required for operations conducted under part 135 of this chapter.

(a) Each certificate holder must have sufficient qualified management and technical personnel to ensure the safety of its operations. Except for a certificate holder using only one pilot in its operations, the certificate holder must have qualified personnel serving in the following or equivalent positions:

- (1) Director of Operations.
- (2) Chief Pilot.
- (3) Director of Maintenance.

(b) The Administrator may approve positions or numbers of positions other than those listed in paragraph (a) of this section for a particular operation if the certificate holder shows that it can perform the operation with the highest degree of safety under the direction of fewer or different categories of management personnel due to—

- (1) The kind of operation involved;
- (2) The number and type of aircraft used; and
- (3) The area of operations.

(c) The title of the positions required under paragraph (a) of this section or the title and number of equivalent positions approved under paragraph (b) of this section shall be set forth in the certificate holder's operations specifications.

(d) The individuals who serve in the positions required or approved under paragraph (a) or (b)

(i) Aviation safety standards and safe operating practices;

(ii) 14 CFR Chapter I (Federal Aviation Regulations);

(iii) The certificate holder's operations specifications;

(iv) All appropriate maintenance and airworthiness requirements of this chapter (e.g., parts 1, 21, 23, 25, 43, 45, 47, 65, 91, and 135 of this chapter); and

(v) The manual required by § 135.21 of this chapter; and

(3) Discharge their duties to meet applicable legal requirements and to maintain safe operations.

(e) Each certificate holder must—

(1) State in the general policy provisions of the manual required by § 135.21 of this chapter, the duties, responsibilities, and authority of personnel required or approved under paragraph (a) or (b), respectively, of this section;

(2) List in the manual the names and business addresses of the individuals assigned to those positions; and

(3) Notify the certificate-holding district office within 10 days of any change in personnel or any vacancy in any position listed.

§ 119.71 Management personnel: Qualifications for operations conducted under part 135 of this chapter.

(a) To serve as Director of Operations under § 119.69(a) for a certificate holder conducting any operations for which the pilot in command is required to hold an airline transport pilot certificate a person must hold an airline transport pilot certificate and either:

(1) Have at least 3 years supervisory or managerial experience within the last 6 years in a position that exercised operational control over any operations conducted under part 121 or part 135 of this chapter; or

(2) In the case of a person becoming Director of Operations—

(b) **[To serve as Director of Operations under § 119.69(a) for a certificate holder that only conducts operations for which the pilot in command is required to hold a commercial pilot certificate, a person must hold at least a commercial pilot certificate. If an instrument rating is required for any pilot in command for that certificate holder, the Director of Operations must also hold an instrument rating. In addition, the Director of Operations must either—]**

(1) Have at least 3 years supervisory or managerial experience within the last 6 years in a position that exercised operational control over any operations conducted under part 121 or part 135 of this chapter; or

(2) In the case of a person becoming Director of Operations—

(i) For the first time ever, have at least 3 years experience, within the past 6 years, as pilot in command of an aircraft operated under part 121 or part 135 of this chapter.

(ii) In the case of a person with previous experience as a Director of Operations, have at least 3 years experience as pilot in command of an aircraft operated under part 121 or part 135 of this chapter.

(c) To serve as Chief Pilot under § 119.69(a) for a certificate holder conducting any operation for which the pilot in command is required to hold an airline transport pilot certificate a person must hold an airline transport pilot certificate with appropriate ratings and be qualified to serve as pilot in command in at least one aircraft used in the certificate holder's operation and:

(1) In the case of a person becoming a Chief Pilot for the first time ever, have at least 3 years experience, within the past 6 years, as pilot in command of an aircraft operated under part 121 or part 135 of this chapter.

(2) In the case of a person with previous experience as a Chief Pilot, have at least 3 years experience as pilot in command of an aircraft operated under part 121 or part 135 of this chapter.

in at least one aircraft used in the certificate holder's operation. In addition, the Chief Pilot must:]

(1) In the case of a person becoming a Chief Pilot for the first time ever, have at least 3 years experience, within the past 6 years, as pilot in command of an aircraft operated under part 121 or part 135 of this chapter.

(2) In the case of a person with previous experience as a Chief Pilot, have at least 3 years experience as pilot in command of an aircraft operated under part 121 or part 135 of this chapter.

(e) To serve as Director of Maintenance under § 119.69(a) a person must hold a mechanic certificate with airframe and powerplant ratings and either:

(1) Have 3 years of experience within the past 3 years maintaining aircraft as a certificated mechanic, including, at the time of appointment as Director of Maintenance, experience in maintaining the same category and class of aircraft as the certificate holder uses; or

(2) Have 3 years of experience within the past 3 years repairing aircraft in a certificated airframe repair station, including 1 year in the capacity of approving aircraft for return to service.

(f) **[A certificate holder may request a deviation to employ a person who does not meet the appropriate airmen experience requirements, managerial experience requirements, or supervisory experience requirements of this section if the Manager of the Air Transportation Division, AFS-200, or the Manager of the Aircraft Maintenance Division, AFS-300, as appropriate, find that the person has comparable experience, and can effectively perform the functions associated with the position in accordance with the requirements of this chapter and the procedures outlined in the certificate holder's manual.]** Grants of deviation under this paragraph may be granted after consideration of the size and scope of the operation and the qualifications of the intended personnel. The Administrator may, at any time, terminate any grant of deviation authority issued under this paragraph.

[(Amdt. 119-3, Eff. 3/12/97)]

